

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SURGICAL INSTRUMENT SERVICE)
COMPANY, INC.,)
)
Plaintiff,)
)
vs.) Case No.
) 3:21-CV-03496-VC
INTUITIVE SURGICAL, INC.,)
)
Defendant.)
-----)

VIRTUAL VIDEOCONFERENCE VIDEO-RECORDED
DEPOSITION OF GREG POSDAL
30(B)(6), SURGICAL INSTRUMENT SERVICE COMPANY

Tuesday, November 1, 2022
Remotely Testifying from Phoenix, Arizona

Stenographically Reported By:
Hanna Kim, CLR, CSR No. 13083
Job No. 5541334-A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SURGICAL INSTRUMENT SERVICE)
COMPANY, INC.,)
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Plaintiff,)
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vs.) Case No.
) 3:21-CV-03496-VC
INTUITIVE SURGICAL, INC.,)
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Defendant.)
_____)

Virtual videoconference video-recorded
deposition of GREG POSDAL, in the capacity of a
30(B)(6) witness of Surgical Instrument Service
Company, Remotely Testifying from Phoenix, Arizona,
on Tuesday, November 1, 2022, beginning at
9:01 a.m., PDT, and concluding at 10:52 a.m.,
pursuant to the stipulations of counsel thereof,
before Hanna Kim, CLR, Certified Shorthand Reporter,
No. 13083.

1 REMOTE VIDEOCONFERENCE APPEARANCES OF COUNSEL:

2
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1 know.

2 Q. This -- you're welcome to look at this
3 reliability/performance test summary section. I
4 haven't found somewhere it says how many instruments
5 were tested. 09:33:31

6 A. Okay.

7 Q. Did you ever ask Rebotix how many
8 instruments were tested?

9 A. I -- I don't recall.

10 Q. Would you have asked Rebotix how many 09:33:38
11 instruments were tested?

12 A. I could have. I do not remember. I don't
13 know.

14 Q. Do you think that the number of
15 instruments that are tested is relevant to 09:34:00
16 determining whether the tests were sufficiently
17 robust to confirm that the devices were safe to use?

18 A. I think they could be. I will say that
19 outside of the chip counter, these instruments are
20 substantially equivalent to items that we've been 09:34:22
21 repairing for up to 50 years. Same basic materials,
22 same basic premises.

23 We were comfortable with the fact that the
24 testing they did and our observations of these
25 pieces of equipment for probably a number of years 09:34:40

1 before this process started would lead us to that
2 same conclusion. So whether I asked or not, I -- I
3 can't be certain.

4 Q. Was any portion of Rebotix' testing
5 protocol specific to the cables in the EndoWrist 09:34:59
6 instruments?

7 A. As I recall insofar as there was a visual
8 inspection to make sure that they were still intact
9 and there was an orientation test to make sure that
10 all were properly aligned, I think that was it. 09:35:21
11 Properly aligned and secured, as I recall.

12 Q. Was any portion of the testing to confirm
13 that the tension of the cables was correct?

14 A. I can't be certain of that. I -- I don't
15 know for certain. 09:35:44

16 Q. You agree that the cables in EndoWrist
17 instruments are not equivalent to any component that
18 appears in traditional laparoscopic instruments;
19 correct?

20 A. In traditional laparoscopic instruments, 09:35:59
21 that is correct. In terms of our exposure to them,
22 we see them every single day in flexible endoscope
23 repairs, not -- not dissimilar at all to those.

24 Q. Describe for me how flexible endoscope
25 cables are similar to the cables that appear in 09:36:22

1 EndoWrist instruments.

2 A. They perform a similar function.

3 They're -- they're connected up at the proximal end

4 so that they can be activated. And they allow for

5 steering or angulation or manipulation of the distal 09:36:38

6 tip, much like the EndoWrist devices.

7 Q. What tests does SIS perform on a flexible

8 endoscope to confirm that the cables are in working

9 order?

10 A. I -- I'm speaking as a -- a CEO right now. 09:37:00

11 I don't work on these every day. To the best of my

12 knowledge, we do a visual inspection to make sure

13 that they're safe and intact. We make sure that

14 they're secured at both ends. And we make sure that

15 they're oriented properly to re- -- to achieve the 09:37:20

16 manufacturer's expectations. That is in terms of

17 angulation of deflection, et cetera.

18 Q. Looking back at page '137, the -- the last

19 couple lines of the paragraph we were just looking

20 at refers to the technical file being "independently 09:37:57

21 reviewed by DQS."

22 Do you see that sentence?

23 A. Yes, I do see that.

24 Q. What is DQS?

25 A. I don't know. 09:38:11

1 Q. Do you know anything about --

2 A. It sounds like a quality system, but...

3 Q. You're -- you're assuming that based on
4 the "QS" in the acronym --

5 A. Yes. 09:38:25

6 Q. Is that right?

7 All right. We can move on to Topic Number
8 3, Mr. Posdal.

9 This is the number of surgical uses and
10 sterilization cycles for which it is safe for 09:38:54
11 EndoWrist instruments to be used both before and
12 after the servicing that SIS markets or performs on
13 or in connection with EndoWrist instruments.

14 A. Okay.

15 Q. Are you prepared to testify regarding that 09:39:09
16 topic?

17 A. Yes, I am.

18 Q. So how many surgical uses is it safe to
19 use an EndoWrist for before it goes through the
20 EndoWrist reset process that SIS has marketed? 09:39:20

21 A. Can you repeat that question.

22 Q. Sure.

23 How many surgical uses is it safe to use
24 an EndoWrist for before the EndoWrist goes through
25 the reset process that SIS has marketed? 09:39:35

1 MR. McCAULLEY: Objection to form.

2 THE WITNESS: I can only say that it

3 depends. Much like the instruments that we repair

4 every day, it depends on how that instrument was

5 handled or treated. The limitation on EndoWrist 09:39:51

6 specifically render that point moot after ten uses.

7 So if you're asking me how long and how many times

8 it can be reprocessed, that would depend, but it

9 would be significantly more than ten.

10 BY MR. CHAPUT: 09:40:14

11 Q. How do you know it would be significantly

12 more than ten?

13 A. Based on our years of repairing, near -- I

14 can't say nearly -- similar items of -- made of

15 similar materials for similar uses. 09:40:27

16 Q. What similar items are you referring to?

17 A. I'm referring to standard laparoscopic

18 instrument, non-robotic laparoscopic instrument

19 that -- that are largely made of the same materials

20 and styles as the EndoWrists. 09:40:45

21 Q. How many sterilization cycles is it safe

22 to use an EndoWrist for before that EndoWrist goes

23 through the resetting process that SIS has marketed?

24 MR. SNYDER: Objection to form.

25 MR. McCAULLEY: Objection to form. Sorry. 09:41:11